

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JEROME A. LINDESMITH,

Plaintiff,

v.

IAN CARL, *et al.*,

Defendants.

Case No. 3:23-cv-00331-ART-CLB

ORDER

Pro se Plaintiff Jerome A. Lindesmith brings this action under 42 U.S.C. § 1983. Plaintiff alleges multiple violations of his rights in connection with an arrest, including his Fourth Amendment right against unreasonable search and seizure, his right against unlawful arrest and imprisonment, his Sixth Amendment right to a speedy trial, and his Eighth Amendment right to be free from excessive bail. (ECF No. 1-1 at 3-8.) Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Carla Baldwin (ECF No. 3), recommending that the Court dismiss Plaintiff’s Complaint, (ECF No. 1-1), without prejudice and without leave to amend and deny as moot Plaintiff’s Application to Proceed *in forma pauperis*, (ECF No. 1), and Plaintiff’s Motion for Appointment of Counsel, (ECF No. 1-2). Plaintiff had until July 27, 2023 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R and will 1) dismiss the Complaint without prejudice and without leave to amend; and 2) deny as moot the Application to Proceed *in forma pauperis* and the Motion for Appointment of Counsel.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where

1 a party fails to object to a magistrate judge’s recommendation, the Court is not
2 required to conduct “any review at all . . . of any issue that is not the subject of
3 an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v.*
4 *Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the
5 magistrate judges’ findings and recommendations is required if, but *only* if, one
6 or both parties file objections to the findings and recommendations.”) (emphasis
7 in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that
8 the Court “need only satisfy itself that there is no clear error on the face of the
9 record in order to accept the recommendation.”).

10 Because there is no objection, the Court need not conduct de novo review,
11 and is satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin
12 recommends dismissing Plaintiff’s complaint because Plaintiff appears to
13 challenge his state court criminal conviction, which he must do through habeas
14 proceedings. (ECF No. 3 at 4.) The Court agrees with Judge Baldwin. Having
15 reviewed the R&R and the record in this case, the Court will adopt the R&R in
16 full.

17 It is therefore ordered that Judge Baldwin’s Report and Recommendation
18 (ECF No. 3) is accepted and adopted in full.

19 It is further ordered that Plaintiff’s Complaint is dismissed without
20 prejudice and without leave to amend.

21 It is further ordered that Plaintiff’s Application to Proceed *in forma pauperis*
22 (ECF No. 1), and Motion for Appointment of Counsel, (ECF No. 1-2), are denied
23 as moot.

24 It is further ordered that the Clerk of Court file the complaint and close
25 the case.

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1 DATED THIS 10th Day of October 2023.

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4 ANNE R. TRAUM
5 UNITED STATES DISTRICT JUDGE
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